

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

DAI NGUYEN,

Plaintiff,

v.

JOHN STOLLER, et al.,

Defendants.

No. 2:23-CV-1157-WBS-DMC-P

**ORDER**

Plaintiff, a prisoner proceeding pro se, brought this civil rights action pursuant to 42 U.S.C. § 1983. On July 22, 2024, the Court dismissed this action for failure to state a claim upon which relief can be granted and final judgment has been entered. See ECF Nos. 21 and 22. Pending before the Court in this closed case is Plaintiff's motion for reconsideration of the Court's July 22, 2024, final order. See ECF No. 23.

The Court may grant reconsideration under Federal Rules of Civil Procedure 59(e) and 60. Generally, a motion for reconsideration of a final judgment is appropriately brought under Federal Rule of Civil Procedure 59(e). See Backlund v. Barnhart, 778 F.2d 1386, 1388 (9th Cir. 1985) (discussing reconsideration of summary judgment); see also Schroeder v. McDonald, 55 F.3d 454, 458-59 (9th Cir. 1995). The motion must be filed no later than twenty-eight (28) days after entry of the judgment. See Fed. R. Civ. P. 59(e). Under Rule 59(e), three grounds may justify reconsideration: (1) an intervening change in

1 controlling law; (2) the availability of new evidence; or (3) the need to correct clear error or  
2 prevent manifest injustice. See Kern-Tulare Water Dist. v. City of Bakersfield, 634 F. Supp.  
3 656, 665 (E.D. Cal. 1986), rev'd in part on other grounds, 828 F.2d 514 (9th Cir. 1987), cert.  
4 denied, 486 U.S. 1015 (1988); see also 389 Orange Street Partners v. Arnold, 179 F.3d 656,  
5 665 (9th Cir. 1999); accord School Dist. No. 1J v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir.  
6 1993).

7 Under Rule 60(a), the Court may grant reconsideration of final judgments and any  
8 order based on clerical mistakes. Relief under this rule can be granted on the Court's own  
9 motion and at any time. See Fed. R. Civ. P. 60(a). However, once an appeal has been filed and  
10 docketed, leave of the appellate court is required to correct clerical mistakes while the appeal is  
11 pending. See id.

12 Under Rule 60(b), the Court may grant reconsideration of a final judgment and  
13 any order based on: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly  
14 discovered evidence which, with reasonable diligence, could not have been discovered within ten  
15 days of entry of judgment; and (3) fraud, misrepresentation, or misconduct of an opposing party.  
16 See Fed. R. Civ. P. 60(b)(1)-(3). A motion for reconsideration on any of these grounds must be  
17 brought within one year of entry of judgment or the order being challenged. See Fed. R. Civ. P.  
18 60(c)(1). Under Rule 60(b), the Court may also grant reconsideration if: (1) the judgment is  
19 void; (2) the judgement has been satisfied, released, or discharged, an earlier judgment has been  
20 reversed or vacated, or applying the judgment prospectively is no longer equitable; and (3) any  
21 other reason that justifies relief. See Fed. R. Civ. P. 60(b)(4)-(6). A motion for reconsideration  
22 on any of these grounds must be brought "within a reasonable time." Fed. R. Civ. P. 60(c)(1).

23 Here, Plaintiff states that his motion for reconsideration is filed pursuant to Rule  
24 59(e) based on "manifest injustice." ECF No. 23, pg. 1. Without alleging any facts not already  
25 presented to the Court in Plaintiff's first amended complaint, Plaintiff argues: (1) Defendants  
26 denied Plaintiff meaningful access to the courts; and (2) Defendants have denied Plaintiff due  
27 process protections. See id. at 2-3. Having considered Plaintiff's motion, the Court finds that  
28 relief under Rule 59(e) is not warranted.

1                   Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for  
2 reconsideration, ECF No. 23, is DENIED.

3 Dated: August 29, 2024



4 WILLIAM B. SHUBB  
5 UNITED STATES DISTRICT JUDGE  
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